

**DEFENDANTS' EVIDENTIARY OBJECTIONS TO THE  
DECLARATION OF TERRY KEATING, PH.D.**

<b>EVIDENCE</b>	<b>OBJECTION</b>	<b>RULE/AUTHORITY</b>
¶ 5: "I have reviewed publicly available records and documents about the '189 Patent, as well as the products accused of infringement in this case, collectively called 'Google Earth.' Based on these documents and my knowledge of the technology, I understanding of the functionality and technology involved in the Google Earth products."	Foundation/Speculation Impermissible Lay/Expert Opinion	Fed. R. Evid. 602 Fed. R. Evid. 701-703
¶ 10: "Based on my review of the publicly available information and my extensive experience in the mapping and GIS software fields, Defendants' Google Earth products perform in the same manner as described in the '189 Patent."	Foundation/Speculation Impermissible Lay/Expert Opinion	Fed. R. Evid. 602 Fed. R. Evid. 701-703
¶ 11: "For example, as required by Claim 1 of the '189 Patent, the Google Earth products use data blocks describing 3D terrain, such as the Earth's surface, to a renderer on the client computer in a hierarchical fashion, whereby the data blocks contain several different resolution levels."	Foundation/Speculation Impermissible Lay/Expert Opinion	Fed. R. Evid. 602 Fed. R. Evid. 701-703
¶ 12: "In other words, the Google Earth products depict data representing a portion of 3D physical features of the terrain, <i>i.e.</i> , Earth."	Foundation/Speculation Impermissible Lay/Expert Opinion	Fed. R. Evid. 602 Fed. R. Evid. 701-703
¶ 12: "The publicly available literature about the Google Earth products reveal that they include, at a minimum, the 3D surface features of an area of land, or topography, as well as the surface features of other areas, objects and materials."	Foundation/Speculation Impermissible Lay/Expert Opinion Best Evidence Rule	Fed. R. Evid. 602 Fed. R. Evid. 701-703 Fed. R. Evid. 1002
¶ 13: "As also required by Claim 1 of the '189 Patent, the data blocks used by the Google Earth products are arranged in a 'hierarchical structure,' that is, different data blocks contain different levels of resolution. Hameline Decl., Ex. 103 at 109."	Foundation/Speculation Impermissible Lay/Expert Opinion	Fed. R. Evid. 602 Fed. R. Evid. 701-703

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¶ 13: "The Google Earth products use data blocks arranged in a hierarchical structure in this same way."	Foundation/Speculation Impermissible Lay/Expert Opinion	Fed. R. Evid. 602 Fed. R. Evid. 701-703
¶ 13: "Even under Defendants' interpretation of hierarchical structure to be organized into multiple levels of resolution, whereby each level contains data blocks at the same resolution, and each viewable successive level contains data blocks of a higher resolution than those in the preceding level (Hameline Decl., Exh. 15 at 19), the accused products would have the claimed hierarchical structure. Hameline Decl., Exhs. 10, 13."	Foundation/Speculation Impermissible Lay/Expert Opinion	Fed. R. Evid. 602 Fed. R. Evid. 701-703
¶ 15: "Defendants' products include a renderer that renders according to their product descriptions."	Foundation/Speculation Impermissible Lay/Expert Opinion Best Evidence Rule	Fed. R. Evid. 602 Fed. R. Evid. 701-703 Fed. R. Evid. 1002
¶ 15: "Also, I understand, even if Defendants' definition of a renderer is used, the accused products do have a renderer that receives data blocks and generates images as proposed in Defendants' definition of renderer. Hameline Decl., Exh. 10; Exh. 15 at 14."	Foundation/Speculation Impermissible Lay/Expert Opinion	Fed. R. Evid. 602 Fed. R. Evid. 701-703
¶ 16: "The Google Earth products similarly allow a user to determine a position in the terrain that is desired for viewing by entering 'coordinates in the terrain.'"	Foundation/Speculation Impermissible Lay/Expert Opinion	Fed. R. Evid. 602 Fed. R. Evid. 701-703
¶ 16: "Google Earth would still include this element of the claims of the '189 Patent, as the accused products allow for the entry of a pair of longitude/latitude coordinates, such as latitude and longitude or x and y coordinates, to determine a particular location in the terrain. Hameline Decl., Exhs. 10, 13."	Foundation/Speculation Impermissible Lay/Expert Opinion	Fed. R. Evid. 602 Fed. R. Evid. 701-703

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¶ 17: "In the Google Earth products, the user specifies the desired resolution of the terrain and the downloaded data corresponds to the specified coordinates and resolution. Hameline Decl., Exh. 10. The Google Earth data blocks of at least three different resolution levels are stored to allow a user to zoom in and out of a particular area. Hameline Decl., Exh. 13 at 109."	Foundation/Speculation Impermissible Lay/Expert Opinion	Fed. R. Evid. 602 Fed. R. Evid. 701-703
¶ 18: "As discussed above, the Google Earth products provide more than one data block to the renderer in order to allow the user to view the requested terrain image. Therefore, a 'first' data block that is received from a remote server is followed by a subsequent data block or blocks at a correspondingly higher resolution level higher than that present in the first block. The data contained in the first and subsequent data blocks correspond to the one or more coordinates if the provided block from the local memory is not at the indicated resolution level."	Foundation/Speculation Impermissible Lay/Expert Opinion	Fed. R. Evid. 602 Fed. R. Evid. 701-703
¶ 19: "As described in the Skyline invention, the Google Earth products similarly download a first and then subsequent data blocks. These data blocks correspond to some coordinates to increase the resolution of an image if the first data block stored locally is not at the desired resolution. Hameline Decl., Exhs. 10, 21. To speed up the process of downloading the data blocks for the user, Google Earth may provide a first resolution data block from local memory and then supplements that first data block with data blocks at a higher resolution retrieved from a server. The user is able to observe this process when using the Google Earth product, as described above in Paragraph 13."	Foundation/Speculation Impermissible Lay/Expert Opinion	Fed. R. Evid. 602 Fed. R. Evid. 701-703

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¶ 19: "Even assuming this definition is correct, the Google Earth products meet this definition."	Foundation/Speculation Impermissible Lay/Expert Opinion	Fed. R. Evid. 602 Fed. R. Evid. 701-703
¶ 20: "The downloaded image data corresponds to the coordinates in the terrain requested by the user and is stored in a local memory. This storage of terrain data in the local memory allows the client to access the desired terrain data without having to access the network each time terrain data is subsequently requested."	Foundation/Speculation Impermissible Lay/Expert Opinion	Fed. R. Evid. 602 Fed. R. Evid. 701-703
¶ 21: "Claim 1 of the '189 Patent also requires a 'remote server' and a 'communication link,' both of which are found in the Google Earth products."	Foundation/Speculation Impermissible Lay/Expert Opinion	Fed. R. Evid. 602 Fed. R. Evid. 701-703
¶ 21: "The data and information includes additional data blocks describing the terrain, at higher resolution levels, if these higher resolution data blocks are not already stored in the local memory of the client computer. The Google Earth products stream data at higher resolution levels to the client from a remote server."	Foundation/Speculation Impermissible Lay/Expert Opinion	Fed. R. Evid. 602 Fed. R. Evid. 701-703
¶ 22: "The Google Earth products include software that is stored in a storage media that can be read by a computer and run on compatible computers, or that read and execute the instructions in the software. As described above, the Google Earth apparatus provides data blocks describes 3D terrain to a renderer. These data blocks belong to a hierarchical structure, which includes data blocks at many different resolution levels."	Foundation/Speculation Impermissible Lay/Expert Opinion	Fed. R. Evid. 602 Fed. R. Evid. 701-703

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¶ 23: "As claimed in the '189 Patent, the data includes data blocks corresponding to coordinates proximal to a current viewpoint (from the perspective of a user of the accused software) of the renderer. In the product literature describes that the Google Earth products utilize a local memory to store data blocks of higher resolution . . . ."	Foundation/Speculation Impermissible Lay/Expert Opinion	Fed. R. Evid. 602 Fed. R. Evid. 701-703
¶ 24: "The Google Earth products include a communication link or, as used in the '189 Patent, a connection used for transferring data between computers. Hameline Decl., Exh. 7, Fig. 5. The Google Earth apparatus streams the first and subsequent higher resolution data block to the client over a network, such as the Internet. The data blocks in the Google Earth products are received from a remote server via the communication link."	Foundation/Speculation Impermissible Lay/Expert Opinion	Fed. R. Evid. 602 Fed. R. Evid. 701-703
¶ 24: "These documents confirm that the Google Earth products include a communication link, through which the memory receives the data blocks from a remote server."	Foundation/Speculation Impermissible Lay/Expert Opinion	Fed. R. Evid. 602 Fed. R. Evid. 701-703
¶ 25: "I believe that the Google Earth products contain a 'processor' under either definition. The Google Earth products require a processor to process the instructions and operate in conjunction with the other elements to provide the functionality touted for Google Earth."	Foundation/Speculation Impermissible Lay/Expert Opinion	Fed. R. Evid. 602 Fed. R. Evid. 701-703
¶ 26: "I understand that Google Earth's processor receives the specified coordinates along with indication of a respective resolution level."	Foundation/Speculation Impermissible Lay/Expert Opinion	Fed. R. Evid. 602 Fed. R. Evid. 701-703

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¶ 27: "Given my review of the publicly available documentation about the Google Earth products, my reading of the '189 Patent, as well as my decades of experience in the Earth imaging and mapping field, I believe that each and every element of Claims 1 and 12 of the '189 Patent is included in or practiced by the Google Earth products."	Foundation/Speculation Impermissible Lay/Expert Opinion	Fed. R. Evid. 602 Fed. R. Evid. 701-703

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